



michigan municipal league

Better Communities. Better Michigan.

April 26, 2011

Honorable Robert P. Young, Jr.  
Chief Justice  
Michigan Supreme Court  
Michigan Hall of Justice  
925 W. Ottawa Street  
P.O. Box 30052  
Lansing, MI 48909

Re: Proposed Court Rule Changes Relating to Claims under Sections 29 and 30 of the Headlee Amendment

Dear Chief Justice Young:

We are writing to express support for the amendments to Michigan Court Rules proposed by the Legislative Commission on Statutory Mandates, which we understand you will be considering on May 11, 2011.

In light of the Supreme Court's holding in the Adair case as to the burden of proof in Headlee mandates cases, it makes sense to us that the pleading requirements for plaintiffs in such cases should be no more stringent than those which apply to other plaintiffs in civil actions filed in trial courts, and consistent with Adair. Where taxpayer dollars and local government budgets are involved, it is hard for us to understand why a complainant seeking enforcement of the State's obligation to fund mandated local services should be required to make a greater investment of time and expense (at public expense) before filing a complaint than other plaintiffs.

Second, we think the practice, ultimately employed in most Headlee cases, of appointing a special master where questions of fact are presented, is a sensible way of addressing the concern that the Court Appeals is not structured to be a fact-finder. Building the special master appointment into the Court Rules would standardize the practice and likely expedite the resolution of the case.

Finally, we understand and respect the interest of the Courts in managing their dockets, and the time required to reach thoughtful decisions. At the same time, we also support the adoption of Court Rules which encourage the parties to Headlee enforcement litigation not to engage in the "prolonged recalcitrance" which your honorable Court observed and noted as the Durant litigation dragged on.

We believe the changes proposed by the Commission present a thoughtful approach to implementation of both the letter and the spirit of the Headlee Amendment and represent the best interest of efficient government at both the State and local level.

If the Court is not inclined to adopt the proposed Court Rule amendments, as an alternative, we hope you will consider setting up a special commission comprised of three or four knowledgeable individuals for purposes of evaluating and making recommendations to address concerns associated with litigation seeking enforcement of Sections 29 and 30 of the Headlee Amendment.

We appreciate your consideration of these comments in your deliberations.

Sincerely,

A handwritten signature in black ink that reads "Daniel P. Gilmartin". The signature is written in a cursive, flowing style.

Daniel P Gilmartin  
Executive Director & CEO

c: Justices of the Supreme Court